Supreme Court, U.S.
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Application No. 07A675

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In The
Supreme Court of the United States

****

October Term, 2007

Sheila Knubbe, Petitioner

v.

Portfolio Recovery Associates, Respondent

****

ON PETITION FOR WRIT OF CERTIORARI TO THE MICHIGAN SUPREME COURT

****

PETITION FOR WRIT OF CERTIORARI

****

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****

OUT OF FINANCIAL NECESSITY THE PETITIONER HEREIN IS PROCEEDING AS PRO SE LITIGANT.

****

QUESTIONS PRESENTED FOR REVIEW

I.

Whether the Michigan Supreme Court, as the state court of last resort, did err in denying the Petitioner's federal constitutional rights when it let stand the fraudulently procured default judgment entered against her at the trial court, when the trial court had no personam jurisdiction nor subject-matter jurisdiction over her, whereas the jurisdiction of the trial court had been fraudulently obtained, whereas the said judgment should have been declared null and void and not binding as a formal adjudication, whereas the Fourteenth Amendment to the federal Constitution prohibits Michigan courts from depriving the Petitioner of her property without the "due process of law," and whereas the Petitioner's guaranteed rights under the Seventh Amendment to the United States Constitution and under various international treaties and principles and laws, such

as the Universal Declaration of Human Rights, of which this country has been a signatory, specifically under the Preamble and Articles 1, 6, 7 and 17 of the said Declaration, have been contravened.

II.

Whether the Michigan Supreme Court, as the state court of last resort, did err when it, by denying the Petitioner's meritorious application for leave to appeal from the constitutionally infirm orders of the Michigan lower courts, has let stand the fraudulently procured default judgment against her, and thereby it has let stand a significant question of federal law in a way that conflicts with the decisions of this August Court, and also conflicts with the decisions of other state courts of last resort, and the decisions of the United States Court of Appeals, and silently has sanctioned such a departure by the trial court that would call for an exercise of the judicial and the judicious and supervisory power of this August Court.

Parties Below

The only parties to this proceeding in the courts below are the Petitioner Sheila Knubbe and the Respondent Portfolio Recovery Associates that have been properly referenced in the caption of this petition.

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Application No. 07A675

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In The
Supreme Court of the United States

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October Term, 2007

Sheila Knubbe, Petitioner
v.
Portfolio Recovery Associates, Respondent

****

PETITION FOR WRIT OF CERTIORARI

The Petitioner respectfully avers that this August Court grant her petition for a writ of certiorari, as the Michigan Supreme Court, as the state court of last resort, in dereliction of its judicial duty turned a proverbial judicial blind eye on the unconstitutionally and fraudulently obtained default judgment in the amount of $8,725.79 against her, while she had not been served with the summons and complaint, nor had she been served with a notice of

request for entry of the default judgment, nor did she owe the Respondent a farthing, while she had been discriminated against by the Respondent because of her gender and age, while the jurisdiction of the trial court had been obtained fraudulently, while the Petitioner, by and through its attorneys, deceitfully colluded with the court officer aiding and abetting the court officer to provide perjurious testimony that she had served the summons and complaint on the Petitioner, and thereby the Respondent, by and through its attorneys, committed suborned perjury against the Petitioner, while at the date, to wit, August 26, 2005, and the hour that the service had been alleged, the Petitioner had been out of town, taking care of her sister-in-law in a hospital in Lansing, Michigan, and she has photos and other documents substantiating such irrefutable facts, while the Petitioner was denied an opportunity to

present the testimony of her own witnesses or their affidavits supporting the Petitioner's position, while her own affidavit asserting that she did not owe any money to the Respondent and denying that she had been served with the summons and complaint and the notice of request for entry of the default judgment was considered immaterial by the trial court, while her meritorious motion to set aside the fraudulently obtained default judgment against her was capriciously denied, while the Petitioner was denied an opportunity to present documentary evidence and to offer testimony to support her position, while she was denied an opportunity to impeach the court officer, while the trial court treated the Petitioner with contempt, insults and reverse racial discrimination, while the trial court out of its deep-rooted animus towards the Petitioner declared her testimony not credible, while the trial

court accepted the perjurious testimony of the court officer quite credible, while the trial court denied the Petitioner her constitutional rights to the due process of law and to a jury trial, while the trial court even additionally obstructed justice against the Petitioner by causing the denial of her an opportunity to perfect and to prosecute her Claim of Right to Appeal from its fraudulently issued default judgment and its other unconstitutional orders, and while the default judgment should have been rendered null and void in perpetuity, as it amounted to manifest injustice and as it did not constitute an adjudication of law but only its perversity, as the jurisdiction of the trial court had been obtained fraudulently and as for want of personam and subject-matter jurisdiction the trial court did not have any jurisdiction over the Petitioner and should have set aside the default forthwith at the first hearing.

To be sure, the Michigan court of last resort in the case at bar unconstitutionally and intentionally and dishonorably has failed to preserve the integrity and the independence of our judiciary, which has meant to be the crown jewel of all of our institutions and the source of pride for every decent and law-abiding and justice-conscious citizen of this glorious nation of ours.

ORDERS BELOW

The order of the Michigan Supreme Court, entered on October 29, 2007, denying the Petitioner's meritorious application, is set forth in **Appendix A**.

The order of the Michigan Court of Appeals, entered on March 28, 2007, denying the Petitioner's meritorious application, is set forth in **Appendix B**.

The order of the Michigan Third Circuit Court, entered on September 6, 2006, denying the Petitioner's meritorious **Claim of Right to Appeal,** timely made relative to the erroneous order of the

Michigan 36th District Court, sua sponte dismissing the Petitioner's **Claim of Right to Appeal** and thereby obstructing justice against the Petitioner to perfect and prosecute her claim of appeal, is set forth in **Appendix C**.

The order of the Michigan Third Circuit Court, entered on September 6, 2006, denying the Petitioner's meritorious **Claim of Right to Appeal,** pending in that court relative to three unconstitutionally and fraudulently entered orders of the Michigan 36th District Court, is set forth in **Appendix D**.

The order of the Michigan 36th District Court, entered on June 16, 2006, sua sponte dismissing the Petitioner's meritorious Claim of Right to Appeal, pending in the Michigan Third Circuit Court, which unbeknownst to the Petitioner had required her to post bond in the amount of $8,725.79, to wit, the

whole sum of the fraudulently obtained default judgment, is set forth in **Appendix E.**

The order of the Michigan 36th District Court, entered on April 5, 2006, obstructing justice against the Petitioner in denying the Petitioner's motion for reconsideration, while a copy of it was served on the Petitioner dilatorily, is set forth in **Appendix F.**

The order of the Michigan 36th District Court, entered on March 15, 2006, denying the Petitioner's motion to set aside the unconstitutionally and fraudulently obtained order of the default judgment and to dismiss the case for want of personam and subject-matter jurisdiction, is set forth in **Appendix G.**

The order of the Michigan 36th District Court for default judgment in the amount of $8,725.79, unconstitutionally and fraudulently entered on September 29, 2005, unbeknownst to the Petitioner,

while a copy of it was served eight days dilatorily on her, is set forth in **Appendix H**.

BASIS FOR JURISDICTION IN THIS COURT

The Order sought to be reviewed is that of the Michigan Supreme Court in the case entitled ***Portfolio Recovery Associates v. Sheila Knubbe,*** under Docket No. 133874.

The said order was entered on October 29, 2007, by the said state court of last resort. The time permitted by law for filing a petition for a writ of certiorari would have expired on January 28, 2008. Therefore, the Petitioner made an application for an extension of time within which to file a ***Petition for a Writ of Certiorari***.

On February 13, 2008, to wit, the ides of February, by its granting the Petitioner her application for an extension of time, this August Court extended the time within which to file a

petition for a writ of certiorari relative to the above-entitled cause of action to March 27, 2008. Thereby, the jurisdiction of this Court is invoked pursuant to Title 28, U.S.C. § 1257(3).

CONSTITUTIONAL PROVISIONS AND TREATIES INVOLVED

AMENDMENT I to the United States Constitution is set forth in **Appendix I.**

AMENDMENT VII to the United States Constitution is set forth in **Appendix J.**

SECTION 1 OF AMENDMENT XIV to the United States Constitution is set forth in **Appendix K.**

UNIVERSAL DECLARATION OF HUMAN RIGHTS, its **Preamble** and **Articles 1, 6, 7 and 17** are set forth in **Appendix L.**

CONCISE STATEMENT OF THE CASE STATEMENT OF THE CASE[1]

[1] It is of note that out of financial necessity the Petitioner herein had no alternative but to appear and act on her own behalf in preparing and filing the instant petition. She has to endure breathtaking and

The case at hand concerns the entry of an order for a fraudulent default Judgment in the amount of $8,725.79 in favor of the Respondent, which was issued on September 29, 2005, unbeknownst to the Petitioner against her, to wit, without any notice, by the Michigan 36th District Court for the City of Detroit, to wit, the trial court, and of which she became in receipt, untimely, on October 9, 2005.

Under considerable hardship and pressure the Petitioner timely filed her motion to set aside the default judgment and to dismiss the cause, along with her affidavit asserting that she had not been served with the summons and complaint and also

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punishing hardship, primary because of her suffering from illness and has been administering assistance to her spouse, who is in ill health, as well, and thereby she fervently appeals to the sense of human dignity and judicial integrity of this August Court to right this outrageously egregious and un-American wrong.

asserting that she did not owe the Respondent a farthing.

The petitioner asserted that for want of personam jurisdiction the said Michigan trial court lacked any authority whatsoever over the Petitioner, as the Petitioner had not been served with the summons and complaint, and thereby the case at hand under the well-established state and federal laws, for lack of service, standing alone, should have been dismissed at the first hearing, as the want of service was so prejudicial and so in contravention of the due process of law that it did not confer any jurisdiction whatsoever on the trial court to proceed at all.

However, it was not, despite the irrefutable fact that the Petitioner did not—and still does not—owe the untruthful Respondent even a penny; the presiding judge, Miriam Martin-Clark, who

conducted herself in the proceedings relative to this case as an incompetent, corrupt and racist African-American, decided that the Petitioner owed the sum of the fraudulently obtained default judgment to the Respondent, and further advised her that regardless of her not being served with the notice of request for entry of the order for default judgment, and regardless of her not being served with the summons and complaint, and regardless of her being defrauded by the Respondent, and regardless of her being discriminated against because of her gender and sex, she still had to prove a meritorious defense, as the burden of the proof allegedly had already been shifted to the Petitioner. In addition, the Petitioner was advised that the Respondent had already proven that she owed it the sum of the default judgment. As the events turned out to be in the case at hand, the jurisdiction of the trial court had been obtained

fraudulently.

The trial court as arbiter of witnesses' credibility could reasonably determine that the Petitioner had not been served with the summons and complaint notwithstanding the sworn testimony, of the court officer (please see **Mullins v. LaBahn**, 244 Wis. 76, 83, 11 N.W.2d 519, 521 (1943)). However, in this case the trial court, while knowing that the court officer and the Respondent had been in fraudulent collusion, declared the court officer's inconsistent and perjurious testimony as "credible," while prejudicially and out of malicious racial consideration, declared that the Petitioner and her witnesses lacked any credibility, without even permitting the Petitioner's witnesses to offer their testimony; the trial court declined to review even the affidavits of the Petitioner's witnesses. The trial court played the race card against the Petitioner and

let the court officer, Ruth Cotton, who like the trial court was African–American, to get away with perpetrating fraud upon the court and the Petitioner; it became a classical case of one black sister protecting another black sister.

The institution of this cause of action initially was brought to the attention of the Petitioner through the said order of default judgment, and it was via the receipt of the said default judgment that the Petitioner for the first time became aware that she had been sued by the Respondent, as she had not been served with any summons and complaint, nor had she been served with a notice of request for entry of the said default judgment. The said default judgment order was also served dilatorily on the Petitioner. In egregious violations of the Petitioner's constitutional rights, rather than peremptorily dismissing the said unlawful action against the

Petitioner, for want of jurisdiction, from the very first hearing, the trial court permitted the Respondent, that lacked any proof and any documentary evidence, by and through its charlatans of attorneys, to resort to additional unlawful acts, while knowing full well that the Petitioner had not been served with the summons and complaint, and to persistently argue that the burden of proof had been shifted to the Petitioner simply because it had instituted a fraudulently schemed lawsuit against her.

Eventually on the ides of March, 2006, the trial court denied the Petitioner's motion to set aside the default judgment and failed to dismiss the case for want of personam and subject matter-jurisdiction, and declined to take into consideration the Petitioner's affidavit asserting that she had not received the summons and complaint, nor had she received any notice of request for entry of order of the

default judgment and further asserted that she did not owe the Respondent even a penny.

On April 5, 2006, the trial court denied the Petitioner's motion for reconsideration and served a copy of its order six days dilatorily on her. The Petitioner made a timely appeal from the trial court's unlawful orders in the Michigan Third Circuit Court. However, unbeknownst to her, the trial court on June 16, 2006, sua sponte entered an unlawful order dismissing the Petitioner's claim of right to appeal without timely serving a copy of its said order on the Petitioner, requiring her to post bond in the amount of $8,725.79, to wit, the whole sum of the fraudulently obtained default judgment. The Petitioner made a claim of appeal of right from the said order as well in the said circuit court.

On September 6, 2006, the said circuit court denied the Petitioner's first meritorious **Claim of**

Right to Appeal timely made concerning three unlawful orders of the trial court which were: (1) order for default judgment, entered on September 29, 2005, (2) order denying Petitioner's motion to set aside the default judgment and to dismiss the case for want of jurisdiction, entered on March 15, 2006, and (3) order denying Petitioner's motion for reconsideration, entered on April 5, 2006.

In addition, the said circuit court on September 6, 2006, entered an order denying the Petitioner's second meritorious **Claim of Right to Appeal** timely made concerning the unlawful order of the trial court, which had been entered on June 16, 2006, unbeknownst to the Petitioner, sua sponte dismissing the Petitioner's claim of right to appeal, without timely serving it on the Petitioner, requiring her to post bond in the amount of $8,725.79.

After her timely appealing the said orders of

the said circuit court in the Michigan Court of Appeals, that court on March 28, 2007, denied the Petitioner's meritorious application for leave to appeal. Then after timely appealing the said order of denial in the Michigan Supreme Court, it on October 29, 2007, denied the Petitioner's meritorious application for leave to appeal, as well.

Under the attendant circumstances in the case at bar, the said Order of denial has amounted to letting stand the fraudulent judgment of the trial court, and thereby such a denial has amounted to rewarding the Respondent Portfolio Recovery Associates and its unscrupulous attorneys, Ms. Karol A. Berndt (P36822), Mr. David T. Zalewski (P51973), Mr. J. Grant Miller (P58658) and their law firm, Meyer & Njus, P.A., whose repugnantly unlawful conducts in the case at hand are akin to those of humbugs and swindlers, for their various violations

of the law, including, inter alia, gender and age discrimination, incriminating wrongdoings, conspiracy to commit fraud and commission of fraud to commit grand larceny against the Petitioner.

It is of note that the Petitioner has witnesses and has provided affidavits of others that she had been out of town and also has taken some photos at the hospital that a forensic examiner can establish objectively that the said photos had been taken from her on August 26, 2005, in the evening at Sparrow Hospital in Lansing Michigan, the date and the time that the court officer has falsely claimed that she had served the summons and complaint on the Petitioner.

It is further of note that the court officer's description of the Petitioner, such as her age and her height, made by the court officer under oath, did not match those of the Petitioner, as the Petitioner is in her late 60s, and not in her 40s, as the court officer

falsely testified under oath, and as the Petitioner's height is near six feet, and not 5'5" to 5'6", as the lying court officer claimed, and as on August 26, 2005, only the Petitioner's sweet cat was home, and she knew better than to open the door to a total stranger at night! The Petitioner wishes her cat could have testified to that fact in order to shame the lying court officer for her dishonesty in falsely claiming that she had served the summons and complaint on the Petitioner. Naturally, when a judge sitting on the bench herself commits actions unbecoming of a judge and obstructs justice under the color of law and cunningly engages in unlawful conducts in her attempts to deprive victims of fraud, like the Petitioner, and acts akin to a judge in a banana republic, one cannot expect an officer of that court to hold any respect for any principle, law or truth, either. Indeed, the trial court proved itself to

be the very embodiment of the proverbial sewage of corruption, racism and odious politics that have been choking Detroit for years.

REASONS FOR GRANTING A WRIT

The Petitioner avers that this August Court should grant her petition for a writ of certiorari in light of the issues of fact—her heart-wrenching ordeals in this case—and on the grounds presented herein below and also the overarching unconstitutional conducts verging on punishing hardship and cruelty that she has been subjected to which in their totality constitute a breathtaking injustice, as they are quite shocking to conscience, and as they are repugnantly un-American.

I.

Whether the Michigan Supreme Court, as the state court of last resort, did err in denying the Petitioner's federal constitutional rights when it let stand the fraudulently procured default judgment

entered against her at the trial court, when that court had no personam jurisdiction nor subject-matter jurisdiction over her, whereas the jurisdiction of the trial court had been fraudulently obtained, whereas the said judgment should have been declared null and void and not binding as a formal adjudication, whereas the Fourteenth Amendment to the federal Constitution prohibits Michigan courts from depriving the Petitioner of her property without the "due process of law," and whereas the Petitioner's guaranteed rights under the Seventh Amendment to the United States Constitution and under various international treaties and principles and laws, such as the Universal Declaration of Human Rights, of which this country has been a signatory, specifically under the Preamble and Articles 1, 6, 7 and 17 of the said Declaration, have been contravened.

It is a basic constitutional law that when a

defendant has defenses that are relevant to the proceeding she must have an opportunity to raise them, as in **American Sur Co v. Baldwin**, 287 U.S. 156, 168; 77 L. Ed. 231, 239 (1932), this Court ruled that:

> Due process requires that there be an opportunity to present every available defense.

Indeed, the principle of procedural due process has been reiterated in numerous decisions of this Court. Certainly, as a citizen of Michigan and the United States, the Petitioner is absolutely entitled to her rights, guaranteed under the due process clause of the Fourteenth Amendment to the federal Constitution. The due process of law signifies fundamental fairness and substantial justice, of which the Petitioner has been utterly denied in the case at hand.

To be sure, the Michigan trial court denied the

Petitioner of such irrefutable constitutional right unlawfully, wantonly, cunningly, flagrantly, prejudicially, insultingly and with malicious racial intent and deep-rooted animus towards the Petitioner, so that she would not be afforded an opportunity to be heard, which is one of the essential elements of the due process of law.

Indeed, the most profound protections of our constitutional system, to wit, the due process of law of the Fourteenth Amendment to the federal Constitution, which is astonishingly quite uncomplicated, guarantees the Petitioner her fundamental right to notice of the trial court's intention to adjudicate her rights and thereby should have accorded her an opportunity to be heard prior to its entry of a default judgment in the amount of $8,725.79, against her, considering the fact that it had been obtained fraudulently. In ***Mullane v.***

Central Hanover Bank, 339 U.S. 306, 314; 70 S. Ct. 652; 94 L. Ed. 865 (1950), this Court opined that:

> **An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Milliken v. Meyer**, 311 U.S. 457; [61 S. Ct. 339; 85 L. Ed. 278 (1940)]; **Grannis v. Ordean**, 234 U.S. 385; [34 S. Ct. 779; 58 L. Ed. 1363 (1914)]; **Priest v. Las Vegas**, 232 U.S. 604; [34 S. Ct. 443; 58 L. Ed. 751 (1914)]; **Roller v. Holly**, 176 U.S. 398; [20 S. Ct.410; 44 L. Ed. 520 (1900)]. The notice must be of such nature as reasonably to convey the required information, **Grannis v. Ordean**, *supra*, and it must afford a reasonable time for those interested to make their appearance, **Roller v. Holly**, *supra*, and cf. **Goodrich v. Ferris**, 214 U.S. 71; [29 S. Ct. 580; 53 L.Ed. 914 (1909)] [emphasis supplied].

In addition, the United States Court of Appeals for the Sixth Circuit, in **Karkoukli's, Inc. v. Dohany and Waterford Township**, 409 F.3d

279 (C.A. 6, 2005), at 283, clarified the requirements of the due process clause of the Fourteenth Amendment concerning the opportunity to be heard, by opining that:

> **The Due Process clauses of the 5th and 14th Amendments prohibit the federal and state governments from depriving any person of property without "due process of law."** "'The fundamental requisite of due process of law is the opportunity to be heard.' **This right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself [or herself] whether to appear or default, acquiesce or contest." Mullane v Central Hanover Bank & Trust Co.,** 339 U.S. 306, 34; 94 L. Ed. 865; 70 S. Ct. 652 (1960) [emphasis supplied].

There are other similar applicable precedents set by other United States Circuit Courts; see, for instance, **Craig v. St. Martin Parish Sheriff, Fuselier, et al.,** 861 F. Supp. 1290 (1994); **In re Cosse,** 1994 U.S. Dist. W.L. 591695 E.D. LA.

In civil suits such as this one such a requirement is fulfilled through service of process, which in strict terms signifies the service of the initial notice to the Petitioner of the filing of the lawsuit by the Respondent. It is through the service of this initial summons that the Petitioner should have been, but of course was not, notified that she had been sued and that the trial court had intended to proceed to adjudicate her rights unbeknownst to her.

Furthermore, personam jurisdiction essentially has to be consistent with a specific statute and has to be consistent with the due process of law. To be sure, personal jurisdiction is essential for the trial court to impose personal obligations on the Petitioner, such as the payment of money, and is required where both the basis of the relief sought and the nature of the remedy are personal to the

Petitioner. In order for the trial court to exercise its personam jurisdiction over the Petitioner, it is necessary that there be a basis for the trial court's exercise of personal jurisdiction and also that the Petitioner must receive a notice of the litigation by service of process. A basis for the trial court's jurisdiction exists only when such a jurisdiction is authorized by a statute and is consistent with the constitutional requirements of the due process of law.

In **Frank E. Basil, Inc. v. Guardino**, 424 A.2d 70, (D.C.1980), in support of its holding that adjudication of a case without having any personal jurisdiction on the part of the court constitutes the violation of the due process of law, opined as follows:

> "It has long been the rule that a valid judgment imposing a personal obligation or duty in favor of the plaintiff may be entered only by a court having jurisdiction over the person of the defendant." **Kulko v. California** Superior Court, 436 U.S. 84, 91, 98 S. Ct. 1690, 1696, 56 L.Ed.2d 132 (1978)

> (citation omitted). Furthermore, "(a) judgment rendered in violation of due process is void in the rendering State and is not entitled to full faith and credit elsewhere." **World-Wide Volkswagen Corp. v. Woodson**, 444 U.S. 286, 291, 100 S. Ct. 559, 564, 62 L.Ed.2d 490 (1980) (citing **Pennoyer v. Neff**, 95 U.S. 714, 732-733, 24 L.Ed. 565(1878)

As a general rule, in a civil case, the court will not be vested with jurisdiction based on the service of process on a defendant who was brought within the reach of its process wrongfully or fraudulently, or by deceit or any other improper device. In **Durant v. Durant** 20 Pa. D. & C.3d 515 Pa.Com.Pl. (1980), the court opined that:

> "The judgment is not vested with this constitutional sanctity of fraud has given rise to a jurisdictional infirmity. Where fraud inheres in the jurisdiction, the judgment is utterly void and inefficacious. **Gray v. Richmond Bicycle Co.**, 167 N.Y. 348, 60 N.E. 663 (Ct. of App. 1901); **Wyman v. Newhouse**, C.C. A.N.Y., 93 F.2d 313, 115 A.L.R. 460 (2d Cir. 1939)."

In **Wyman,** supra, at 315, the court cited the following:

> "A judgment procured fraudulently, as here, lacks jurisdiction and is null and void. A fraud affecting the jurisdiction is equivalent to a lack of jurisdiction."

The rule is that the personal "service of process if procured by fraud, trickery or artifice, is not sufficient to give to a court jurisdiction over the person thus served." 62 Am. Jur. 2d, Process § 54; **Hotlen v. Middour**, 405 Pa. 351,171 A.2d 760 (1961); **Eastburn v. Turnoff**, 394 Pa. 316, 147 A. 2d 353 (1959).

Furthermore, in **Durant,** supra, it was opined that:

> "Courts are not established for the purposes of aiding fraud, deceit or wrong, but to prevent such things. The law will not permit a party to take advantage of its own wrongs. It is a fraud upon the law, and Courts will not aid the fraud or deceit. The aid of Courts should not be successfully

> invoked to promote the practice of trickery and deceit. If a defendant is within the jurisdiction of the Court by means of fraud or trickery of the Plaintiff, no act accomplished thereby can be allowed to stand. . . A fraud or trick usually has a fair face. It would not succeed without it." **Margos v. Moroudas**, 184 Md. 362, 368, 370, 40 A.2d 816, 818, 819(1945).

However, in the case at hand the court officer, in collusion with the Respondent's attorneys, provided perjurious testimony to the trial court, deceptively claiming that she had served the summons and complaint on the Petitioner while it was impossible because at the date and time that she claimed she had served the Summons and complaint on the Petitioner she was at Sparrow Hospital in Lansing, Michigan, attending to her sister-in-law, whom she had taken to that hospital for possible heart attack or stroke because she had been experiencing chest heaviness and pressure in her left arm and numbness and Petitioner and her spouse

and the patient, herself, were concerned that she might be getting a heart attack. In fact, while at the hospital some photos have been taken of her, her spouse, the patient and her son and a forensic expert will be able to establish that she had been at the hospital in Lansing, Michigan, and it was impossible for the court officer to serve the Petitioner on that date and time.

Ordinarily, service of process that is not carried out in the manner provided by law is deemed absolutely an invalid one and the defective return of service is so prejudicial and in contravention of the due process of law that it does not confer jurisdiction on the court to proceed at all. Indeed, when the service of process is substantially defective, it generally renders the process null and void, as a substantial defect therein renders an original notice fatally defective, and thus when a summons fails to

comply with notice requirements it is incapable of conferring jurisdiction on a court.

However, in the case at hand the court officer, in collusion with the Respondent's attorneys, provided perjurious testimony to the trial court, deceptively claiming that she had served the summons and complaint on the Petitioner.

However, it is of note that of late a cottage industry has become a rage in this country and Michigan has been no exception. A great number of so-called debt collection agencies, such as the Respondent, akin to proverbial hyenas find their unfortunate victims, like this Petitioner, among the women, the elderly, the sick and the vulnerable, who have limited incomes and who have retired and who have permanent residences. They, through various unlawful means, by fabricating, for instance, some record or just doctoring a phony piece of paper, as the

Respondent has done in this case, keep harassing them until they wear them down psychologically—this is what the Respondent has done to the Petitioner here—and through all kinds of tricks, and deceitful means, they exhaust them until they are able to sink their fangs in their victims' peace of mind, and thereafter they either blackmail them into some settlement or through threat, manipulation, harassment and/or fraudulent means and schemes and/or fabricated claims drag them to court and under the color of law rip them off! When a court and a court officer add their own corruption to the fray, while attorneys representing the so-called debt collectors themselves act akin to charlatans, the victims, like this Petitioner, have to face a living nightmare to defend their rights even in court. Therefore, the Michigan court of last resort nefariously and scandalously failed to execute its

judicial duty to draw a line in order to, under the established legal principles, confront the public enemies and charlatans like the criminal Respondent, so that they lay off of the wretched victims like the Petitioner, who are suffering from illness, and who are reaching the dusk of their lives, and who are of the second sex, and who are quite vulnerable to the predators of the society, so that the predatory hyenas, like the Respondent, who are represented by equally fraudulent charlatans with shingles as their attorneys, would have second thoughts the next time when they find another victim to prey on for their unlawful intentions. Of course, what makes the pain and suffering for the Petitioner more than those other victims is that she does not owe the dishonest Respondent a dime, nor has it been established or will the Respondent be able to establish that the Petitioner, who did not

know it from Adam, owed it a farthing; and most significant of all, this wretched Petitioner was not even served with the summons and complaint, nor was she served with any request for entry of the default judgment, and since the Respondent discriminated against the Petitioner for her age and sex, the Michigan 36th Distinct Court lacked any subject-matter jurisdiction over her either—in addition to lack of personal jurisdiction—as to the civil rights matters, which are within the province of the Michigan circuit, and not district, courts.

What is testament to the nature of the con-artist like the Respondent is the fact that after securing a fraudulently obtained default judgment against the Petitioner, and while its ink had not yet dried, and while the Petitioner was still pursuing her rights in court and was struggling to protect her rights, the Respondent through its attorneys made

harassing and threatening telephone calls to her to collect the said fraudulently obtained default judgment against her. In addition, on October 11, 2005, while this case was still pending in the trial court, the Respondent's law firm, wrote a letter, addressed to the Petitioner, by one of its crooked attorneys, Karol A. Berndt (P36822), demanding the collection of alleged "Current Balance Due: $8,736.79," while fully being cognizant of the fact that the Petitioner did not owe the deceitful Respondent a penny. This intimidating letter, standing alone, is a small testament to the fact that the attorneys, who have been representing the Respondent in the case at hand, have been acting as a group of cutthroat swindlers.

It is of note that the Petitioner has been in contact with a number of attorneys in her home state, Michigan, who, to her astonishment, have

advised her that there is a pandemic and prevalent corruption, referred to pejoratively simply as "sewage service," which is particularly pervasive in the Michigan 36th District Court. Of course in the case at bar, the court officer, who had not served the summons and complaint on the Petitioner, conspired with the Respondent, by and through its attorneys, and thereby provided perjurious testimony, falsely under oath claiming that she had served the concerned summons and complaint on the Petitioner. However, the Petitioner was denied an opportunity to defend her constitutional rights.

More than two hundred years ago, in the case of **Marbury v. Madison**, 1 Cranch 137, 163 (1803), Justice John Marshall presciently and eloquently observed the following:

> The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever [s]he receives an injury.

> One of the first duties of the government is to afford that protection.

In addition, in extending his eloquent articulation of the essence of justice, while quoting from 3 Blackstone's Commentaries 23, Justice Marshal, in **Marbury**, at 163, provided the following:

> * * * 'it is a general and indisputable rule that where there is a legal right, there's also a legal remedy by suit or action at law, whenever that right is invaded.'

To be sure, in light of the wrongful conducts and egregiously unlawful orders of the lower courts, those of the trial court in particular, the unconscionable denial of the Petitioner's substantive rights has been highly offensive even to the Michigan Constitution regarding the Petitioner's right to a jury trial. In fact, the Michigan Supreme Court clarified the Act of 1853 as to the right of a party to demand a jury trial in a civil case in **Jones v. Eastern**

Michigan Motorbuses, 287 Mich. 619, 283 N.W. 710 (1939), at 653-654, as follows:

> 'Section 1. *The People of the State of Michigan enact,* That all issues of law shall be tried by the court, and all the issues and questions of fact shall be tried by the court, unless a jury be demanded by one of the parties, in a manner prescribed by the rules of court.'

In addition, the unconscionable denial of the Petitioner's substantive rights has been highly offensive to the federal Constitution, not only the due process and equal protection clauses of the Fourteenth Amendment but also the Seventh Amendment, which guarantees the Petitioner of her right to a jury trial; this right traditionally in American jurisprudence has been perceived to be "inviolate forever" and "shall remain inviolate," and "shall be secured" when the state constitutional provision has been adopted.

This Court has watchfully and compellingly

elucidated the right to trial by jury in **Baltimore & Carolina Line, Inc. v. Redman**, 295 U.S. 654, 55 S.Ct. 890, 1935 A.M.C. 881, 79 L.Ed. 1636, at 656-657, as follows:

> 'In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.'
>
> * * *
>
> The aim of the amendment, as this Court has held, is to preserve the substance of the common-law right of trial by jury, as distinguished from mere matters of form or procedure, and particularly to retain the common-law distinguished from mere matters of form or procedure, and particularly to retain the common-law distinction between the province of the court and that of the jury, whereby, in the absence of express or implied consent to the contrary, issues of law are to be resolved by the court and issues of fact are to be determined by the jury under appropriate instructions by the court.
>
> FN4 **Walker v. New Mexico, etc.**, R.R. Co., 165 U.S. 593, 596, 17 S.Ct. 421, 41 L.Ed. 837 [1897];

Gasoline Products Co. v. Champlin Refining Co., 283 U.S. 494, 497-499, 51 S.Ct. 513, 75 L.Ed. 1188 [1931]; **Dimick v. Schiedt**, 293 U.S. 474, 476, 485, 486, 55 S.Ct. 296, 79 L.Ed. 603, 95 A.L.R. 1150 [1935].

In addition, the Petitioner's guaranteed rights under various international treaties and principles and laws, such as the Universal Declaration of Human Rights, of which this country has been a signatory, specifically under the Preamble and Articles 1, 6, 7, and 17 of the said Declaration have been unconscionably and fraudulently breached.

It is of note that although the legislators have provided some lawful means for the public to protect themselves against the deceitful and harassing predators like the Respondent, the Michigan court of last resort in the case at bar let stand other egregious violations committed against the Petitioner's rights under the Fair Debt Collection Practices Act (as amended by Public Law 104-208,

110 Stat. 3009 (Sept. 1996)), the Consumer Credit Protection Act (15 US 1601 et seq.), Federal Privacy Act, 5 USC § 552, and the germane state and federal precedents in support thereof. In addition, the Michigan court of last resort dishonorably and unconstitutionally let stand the unlawful orders of the trial court, which, itself, racially discriminated against the Petitioner, and thereby permitted the Respondent to violate the Petitioner's civil rights, relative to her age and gender.

Incredibly, the trial court rendered its judgment against the Petitioner while all along it lacked any jurisdiction whatsoever over her, and thereby the trial court lacked any judicial authority to render any judgment, as the Petitioner had not been served with the summons and complaint, period.

II.

Whether the Michigan Supreme Court, as the state court of last resort, did err when it, by denying the Petitioner's meritorious application for leave to appeal from the constitutionally infirm orders of the Michigan lower courts, has let stand the fraudulently procured default judgment against her, and thereby it has let stand a significant question of federal law in a way that conflicts with the decisions of this August Court, and also conflicts with the decisions of other state courts of last resort, and the decisions of the United States Court of Appeals, and silently has sanctioned such a departure by the trial court that would call for an exercise of the judicial and the judicious and supervisory power of this August Court.

Indeed, the Michigan Supreme Court unconscionably refused to review the trial court's constitutionally repugnant orders, which conflict

with the decisions of other state courts of last resort, the United States Courts of Appeal and the outcomes of certain careful deliberations exercised by this August Court.

Although the Michigan Supreme Court did not issue any decision as to its denial of the Petitioner's application, in **Alken-Ziegler, Inc. v. Waterbury**, 461 Mich. 219; 600 N.W.2d 638 (1999), at 231, the Michigan Supreme Court has provided the grounds for the requirements to set aside a default or a default judgment in Michigan by reasoning that:

> A proceeding to set aside a default or a default judgment, except when grounded on want of jurisdiction over the defendant, may be granted only if good cause is shown and an affidavit of facts showing a meritorious defense is filed. Sub-rule 520.4. Good cause within the meaning of this provision would seem to include (1) a substantial defect or irregularity in the proceedings upon which the default was based, (2) a reasonable excuse for failure to comply with the requirements which created the default, or (3) some other reason

> showing that manifest injustice would result from permitting the default to stand.

In the case at hand, neither the exception for want of jurisdiction relative to the Petitioner's case, nor the manifest injustice that the default judgment had caused her was taken into judicial consideration.

Indeed, the cited grounds are in conflict with those reasons provided in other state courts of last resort. The case in point, the Kentucky Supreme Court in **Gardner et al. v. Lincoln Bank & Trust Co.**, 251 K.Y. 109; 64 S.W.2d 497 (1933), at 499, in explanation of its holding opined as follows:

> There is good authority upon the proposition that sheriff's return of service of summons is not conclusive between the parties in the same proceeding after judgment is rendered, but that defendant on motion to set the judgment aside can prove the falsity of the return. A thoroughly considered case, which upholds the right of a defendant to vacate by motion a judgment which had been rendered against him without notice of the suit, is

found in **Du Bois v. Clark**, 12 Colo. App. 220; 55 P. 750, 751 [1898]. . . .

Furthermore, the **Gardner** court, at 499, on expounding on setting aside its own judgment cited the following in support of its opinion:

> "The authority of a court to set aside its judgment, when the action is demanded by justice. is not dependent upon statute. The power is inherent, and may, in a proper case, and upon a proper showing, be exercised at any time. See **Ladd v. Stevenson**, 112 N.Y. 325; 19 N.E. 842 [8 Am. St. Rep. 748]" [1889].

In addition, as to want of process and collateral attacks on judgments, the **Gardner** court, at 500-501, compellingly declared:

> The bank insists the Gardners by this defense are making a collateral attack on this judgment and that it cannot be so attacked. The bank is mistaken, this is a direct attack on this judgment, it is a motion to set it aside upon the ground that it is void as to Mrs. Gardner for want of process on her, and a void judgment is not worth the paper it is written on and can be attacked anywhere, any time. . . .

In the same vein, in its syllabus, the Supreme Court of North Dakota in **Odland v. O'keeffe Implement Co et al.**, 59 N.D. 335; 229 N.W. 923 (1930) clearly defined the power of the court to vacate and set aside judgments without service of process by stating as follows:

> A court possesses the inherent power to vacate and set aside a judgment, where it is established that such judgment was entered without service of process upon the defendant, and the court never otherwise acquired jurisdiction.
>
> A defendant is entitled to relief from a judgment as a matter of right, where the court was without jurisdiction to enter the same because no service of process had been made upon him.

In addition, at 924, the **Odland** court expounded upon its reasoning concerning the effect of no service by opining that:

> If, as he contends, there was in fact no service upon Selk, the court possesses the inherent power to vacate

> and set aside the judgment. **Yorke v. Yorke**, 3 ND 343; 55 N.W. 1095 [1893]; **Freeman v. Wood**, 11 N.D. 1; 88 N.W. 721 [1911]; **Williams v. Fairmount School District**, 21 N.D. 198; 129 N.W. 1027 [1911]. And if there was no service and so no jurisdiction to enter the judgment, Selk's application to vacate and set it aside was not one addressed to the discretionary power of the court. In such case he was entitled to the relief which he prayed, not merely as a matter of grace, but as a matter of right. See **Beery v. Peterson** (N.D.) 58 N.D. 275; 225 N.W. 798 (1929).

In the same vein, the Supreme Court of the said state in its syllabus in **Baird v. Ellison et al.**, 70 N.D. 261; 293 N.W. 794 (1940) concerning the necessity of service of process held in the following manner:

> 2. Following **Odland v. O'Keefe Implement Company**, 59 N.D. 335, 229 N.W. 923, [1930] it is *held*: A defendant is entitled to relief from a judgment as a matter of right where the court was without jurisdiction to enter the same because no service of process had been made upon him.

Similarly, the Supreme Court of North Carolina in **Harris v. W.F. Maready**, 311 N.C. 536; 319 S.E.2d 912 (1984), at 541-542, explained North Carolina's rule of procedure, which governed process and service of process as follows:

> . . . The purpose of the rule is to provide notice of the commencement of an action and "to provide a ritual that marks the court's assertion of jurisdiction over the lawsuit." **Wiles v. Welparnel Construction Co**, 295 N.C. 81; 243 S.E.2d 756, 758 (1978) (quoting Wright & Miller, Federal Practice and Procedure: Civil § 1063 p. 204 (1969)). Unless notice is given to the defendant of proceedings against him and he is thereby given the opportunity to appear and be heard or he appears voluntarily, the court has no jurisdiction to proceed to judgment even though it may have subject matter jurisdiction. **Beaufort County v. Mayo**, 207 N.C. 211; 176 S.E. 753 (1934).

In the same vein the Supreme Court of Florida in **Klosenski v. Flaherty**, 116 So.2d 685; 82 A.L.R. 2d 664 (1960), at 768-769, in support of its holding

clarified the real purpose of the summons by illuminating that:

> This court has said that 'the real purpose of the service of summons ad respondendum is to give proper notice to the defendant in the case that he is answerable to the claim of plaintiff and, ***therefore, to vest jurisdiction in the court entertaining the controversy*** * * *.' State ex rel. **Merritt v. Heffernan**, 1940, 142 Fla. 496, 195 So. 145, 147, 127 A.L.R. 1263. (Emphasis added.) In a very early case it was held that 'a summons, regularly served, as required by the [statute or rules], gives the court jurisdiction of the person of the defendant.'
>
> Many other decisions of this court show clearly that the officer's return is no part of the service—either to add to or detract from it—but is merely evidence to enable the trial judge to conclude that the court has acquired jurisdiction of the person of the defendant, or has not done so, as the case may be. There may be valid service and a defective return, see **Largay Enterprises, Inc. v. Berman** [61 So.2d. 366,371919520], supra; or there may be invalid service and a return showing valid service, see **McIntosh v. Wibbeler**, Fla. 1958, 106 So.2d 195 [1958]. In either case it is the fact of

> valid service—or the fact of invalid service-as shown by the evidence, that is controlling insofar as the question of jurisdiction over the person of the defendant is concerned, and not the officer's return on the writ. . . .

Likewise, the Supreme Court of Nebraska in **Etlers v. Grove**, 147 Neb. 704; 24 N.W.2d 866 [1946], at 706, in support of its holding relative to the lower court's setting aside and vacating a default judgment for lack of jurisdiction as being void, it provided the following:

> 'If it appears that no jurisdiction was acquired over a defendant in the manner required by law, a judgment rendered against him is void.' **Hassett v. Durbin**, 132 Neb. 315, 271 N.W. 867 [1937] '* * * a judgment rendered by a court without jurisdiction of the parties is absolutely void. **Ritchey v. Seeley**, 68 Neb. 120, 129, 93 N.W. 977, 94 N.W. 972, 97 N.W. 818 [1903].' **Omaha Nat. Bank v. Robinson**, 73 Neb. 351, 102 N.W. 613, 104 N.W. 1070, 119 Am.St.Rep. 903 [1905]. See also, **Luse v. Rankin**, 57 Neb 632, 78 N.W. 258 [1899].

In addition, the **Etlers** court, at 707, cogently

accentuated that a meritorious defense on the part of the defendant was not necessary, as it opined that:

> 'A proceeding to vacate and set aside a judgment for the reason that it is void must be brought in the court in which the judgment was rendered.' **Rasmussen v. Rasmussen** [131 Neb. 724, 269 N.W. 818 (1936)], *supra*. Nor is it necessary that a meritorious defense be shown on the part of the defendant. **Kaufmann v. Drexel**, 56 Neb. 229, 76 N.W. 559 [1898]; **Baldwin v. Burt**, 2 Neb. Unof. 377, 96 N.W. 401[1902]; **Hayes County v. Wileman** [82 Neb. 69, 118 N.W. 478, (1908)], *supra*.

Furthermore, the **Etlers** court, at 707-708, forcefully put emphasis on the settled law in Nebraska that a false return of service of process may be impeached by stating that:

> 'It is the settled law of this state that a false return of service of process may be impeached by extrinsic evidence, and that where the attempted service fails to reach the party to be served in any way a judgment founded thereon is absolutely void and open to collateral attack.' **Baldwin v. Burt**, *supra* [2 Neb. 377, 96 N.W. 402 1902].

Similarly, the Illinois Supreme Court in **State Bank of Lake Zurich, et al. v. Thill Jr., et al.**, 113 Ill. 2d 294, 497 N.E.2d 1156, 100 Ill.Dec. 794 (1986), in support of its holding, at 309, opined the following:

> . . . Accordingly, a judgment rendered by a court which fails to acquire jurisdiction of either the parties or the subject matter of the litigation may be attacked and vacated at any time or in any court, either directly or collaterally. **R.W. Sawant & Co. v. Allied Programs Corp.** (1986), 111 Ill.2d 304, 309, 95 Ill.Dec. 496, 489 N.E.2d 1360; **Johnston v. City of Bloomington** (1979), 77 Ill.2d 108, 112, 32 Ill.Dec. 319, 395 N.E.2d 549.

Likewise, the United States Court of Appeals Eighth Circuit in **Hicklin v. Edwards**, 226 F.2d 410 (1955), at 413, in support of its holding, strappingly argued the essentiality of notice to the defendant for the purpose of conferring jurisdiction upon all courts as follows:

> The motion filed by Mrs. Hicklin supported by the affidavits to the effect that she had no summons served upon

her and had no knowledge of the pendency of the action constituted a sufficient presentation to the court of her claim that the default judgment against her was void. As was stated by the Supreme Court nearly one hundred years ago in **Nations v. Johnson**, 24 How. 195, loc. cit. 203, 65 U.S. 195, loc. cit. 203, 16 L.Ed. 628 [1860]. '**No men shall be condemned in his person or property without notice and an opportunity to make his defense**' * * * '**Notice to the defendant is essential to the jurisdiction of all courts** * * *.' And '**when a judgment is brought collaterally before the court, it may be shown to be void on its face for want of notice to the person against whom it is entered.**' Cited in **Earle v. McVeigh**, 91 U.S. 503, 23 L.Ed. 398 [1875]. **In Webster v. Reid**, 11 How. 437, loc. cit. 459, 52 U.S. 437, loc. cit. 459, 13 L.Ed. 761 [1850], the Supreme Court said, '**No person is required to answer in a suit on whom process has not been served or whose property has not been attached. In this case there was no personal notice * * *. The judgments therefore are nullities** * *' [emphasis supplied].

In Its further citing the opinion of this Court, the **Hicklin** court, at 413, placed its emphasis

upon the necessity of service of process or notice as follows:

> In **Walden v. Craig's Heirs**, 14 Pet. 147, loc. cit. 154, 39 U.S. 147, loc. cit. 154, 10 L.Ed. 393 [1840], the Supreme Court said: '**Service of process or notice is necessary to enable a court to exercise jurisdiction in a case; and if jurisdiction is taken in a case in which there has been no process or notice, the proceeding is a nullity. It is not only voidable but it is absolutely void**' [emphasis supplied].

In addition, the **Hicklin** court, at 413, emphatically pointed out that a meritorious defense is not necessary in order to vacate a void judgment by opining as follows:

> It is argued that the judgment appealed from should be sustained because Mrs. Hicklin failed to show that she had a meritorious defense, but aside from the fact that she stated in her motion that she had such a defense, it is settled that '**no showing of merits is necessary in support of a motion to vacate a void judgment.**' **Wise v. Herzog**, 72 App.D.C. 335, 114 F.2d 486, 492 [1940]; **Schwarz v. Thomas**,

D.C.Cir., 222 F.2d 305 [1055] [emphasis supplied].

CONCLUSION

In light of all of the disturbing issues of fact and all the grounds set forth above, the Petitioner respectfully requests that this August Court **grant** her **Petition for Writ of Certiorari,** as such a granting would be deemed just and proper in good conscience, and as this August Court, itself, again and again has reiterated the paramount significance of the fundamental principles of law, particularly those enshrined in the federal Constitution, of which the Petitioner has been unconstitutionally denied by the Michigan state courts, particularly by the state court of last resort, whose conduct in this case amounted to the dereliction of its judicial duty, as it turned a blind eye on the breathtaking extent of lawless behavior on the part of the trial court and a scandalous degree of fraud and corruption that took

place in the case at hand against the Petitioner, resulting in stealing her property, aided and abetted by the trial court that had not been vested with any jurisdiction over the Petitioner, as she had not been served with a summons and complaint, nor had she been served with a notice of request for entry of default judgment, as the lack of such service substantially and materially prejudice the Petitioner's right under the due process of law, and as the trial court's jurisdiction had been obtained fraudulently.

Respectfully submitted,

By: _____

Sheila Knubbe (In Pro Per)
P. O. Box 8052
Eastpointe, MI 48021-8052

Dated: March 24, 2008.

Appendix A

Order

Michigan Supreme Court
Lansing, Michigan

October 29, 2007

133874

Clifford W. Taylor,
Chief Justice
Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PORTFOLIO RECOVERY ASSOCIATES,
Plaintiff-Appellee,

v

SC: 133874
COA: 273362
Wayne CC: 06-611835-AV
06-619268-AV
36th DC: 05-120468-GC
05-303510-GC

SHEILA KNUBBE,
Defendant-Appellant.
_____/

On order of the Court, the application for leave to appeal the March 28, 2007 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

SEAL OF THE MICHIGN
SUPREME COURT LANSING

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 29, 2007

(Signed) Corbin A. Davis
Clerk

Appendix B

Court of Appeals, State of Michigan

ORDER

Michael J. Talbot
Presiding Judge
Kirsten Frank Kelly
Karen M. Fort Hood
Judges

Portfolio Recovery Associates v Sheila Knubbe
Docket No. 273362
LC No. 06-611835-AV;06-619268-AV

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

Signed) Michael Talbot
Presiding Judge

(Seal) COURT OF APPEALS OF
THE STATE OF MICHIGAN * * 1965

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 28 2007 (Signed) Sandra Schultz Mengel
Date Chief Clerk

Appendix C

STATE OF MICHIGAN
THIRD CIRCUIT COURT

ORDER
(DB6)
CASE NO.: 06-619268

Portfolio Recovery Assoc -v- Sheila Knubbe
PLAINTIFF(S) DEFENDANT(S)

ORDER: _____

At a session of said Court, held in the CAYMC _____ Building, Detroit, Michigan on 9/7/06

PRESENT: HON.: CYNTHIA DIANE STEPHENS

This cause having come on for Review under MCR 7.101 N(1)

before the Court, and the Court determined that this appeal is duplicative of the appeal in 06 611 835

IT IS ORDERED that this appeal is dismissed.

IT IS FURTHER ORDERED that _____

9/7/06
DATE

(Signed) Cynthia Diane Stephens
CIRCUIT COURT JUDGE
CYNTHIA DIANE STEPHENS

CDS/jh/05

Appendix D

STATE OF MICHIGAN ORDER
THIRD CIRCUIT COURT (DB6)
CASE NO.: 06-611835 AV

Portfolio Recovery Assoc -v- Sheila Knubbe
PLAINTIFF(S) DEFENDANT(S)

ORDER: _____

At a session of said Court, held in
the CAYMC _____
Building, Detroit, Michigan on
9/7/06

PRESENT: HON.: CYNTHIA DIANE STEPHENS

This cause having come on for Review due to the Court's concerns that there were 2 cases pending on the same issues.

before the Court, and the Court received, albeit very late the Order of the Trial Court dismissing this appeal on 6/16/06 per MCR 7.101(G)

IT IS ORDERED that this Court enters the required dismissal of the appeal per the same rule, effective today.

IT IS FURTHER ORDERED that _____

9/7/06 (Signed) Cynthia Diane Stephens
DATE CIRCUIT COURT JUDGE
CYNTHIA DIANE STEPHENS

CDS/jh/05

Appendix E

STATE OF MICHIGAN
JUDICIAL DISTRICT ORDER DISMISSING APPEAL
JUDICIAL CIRCUIT

CASE NO.
05-120468 GC
-611835 AV

Court address

Court telephone no.

Plaintiff name(s), address(es) and telephone no(s)

PORTFOLIO RECOVERY ASSOC.
C/O KAROL BERNDT
17340 W 12 MILE RD. STE 200
SOUTHFIELD, MI 48076

v

Defendant name(s), address(es), and telephone no(s)
KNUBBE, SHEILA
20197 MORNINGSIDE
GROSSE POINTE FARMS [sic], MI 48080 [sic]

Plaintiff attorney, bar no., address, and telephone no.

v

Defendant attorney, bar no., address, and telephone no.

IT IS ORDERED the appeal in this cause is dismissed under

| | MCR 7.101(G). The trial court clerk must promptly notify the circuit court of this dismissal and the circuit court shall dismiss the claim of appeal. Compliance with subrule (F)(1) after the 28 day period does not preclude dismissal of the appeal unless the appellant shows a reasonable excuse for the late compliance.

| | MCR 7.101(J). The circuit court clerk must promptly notify the trial court of this dismissal.

| | MCR 7.101(P) because _____
_____. Actual and punitive damages are assessed as follows: $8725.79 CASH/SURETY BOND ON APPEAL NOT PAID. NONCOMPLIANCE OF APPEAL PROCEDURES.

Appendix E
(continuation)

June 14, 2006 (Signed) Miriam B. Martin-Clark
Bar no.
P34684

CERTIFICATE OF MAILING

I certify that on this date, this order was served on the parties by ordinary mail at the addresses shown above.

Date Signature

NOTE: The following is completed by the circuit court only when the district court orders dismissal under MCR 7.101(G).

DISMISSAL OF CLAIM OF APPEAL

The claim of appeal in this cause is dismissed under MCR 7.101(G).

6 - 16 – 06 (Signed) Adison (spelling ?)
Date Clerk

MC 61 (6/96) ORDER DISMISSING APPEAL MCR7.101(G), (J), (P)

A TRUE COPY
(Signed) Adison (spelling ?)
DEPUTY CLERK

Appendix F

36th DISTRICT COURT
DETROIT, MICHIGAN

Date: March 15, 2006
Re: Portfolio Recovery Associates
vs.
Sheila A. Knubbe

Karol A. Berndt Esq.
17340 W. 12 Mile Road Ste. 200
Southfield, Michigan 46046

No. 05120468 GC

DEFENDANT'S MOTION FOR RECONSIDERATION

The motion is **DENIED**. The reasons for this Court's decision were adequately stated, on the record, at the time of the hearing on **March 15, 2006. The motion is hereby DENIED**

Sheila A. Knubbe
20197 Morningside
Grosse Pointe Farms, Michigan 48080-0437

Miriam B. Martin-Clark
JUDGE

[It is of note that the said judge **failed to sign the said order**.]

Appendix G

36th DISTRICT COURT
DETROIT, MICHIGAN

Date: March 15, 2006
Re: Portfolio Recovery Associates
vs.
Sheila A. Knubbe

Portfolio Recovery Assoc
17340 W. 12 Mile Rd
STE 200
Southfield, MI 48076

No. 05120468 GC

The Defendants Motion to Set Aside Default Judgment is Denied. This Court finds Defendant Without Good Cause and/or a Meritorious Defense MCR 2.603(D)(1). Defendant's counsel's motion to withdraw is Granted.

Sheila A. Knubbe
20197 Morningside
Grosse PTE Farms, MI

(Signed) Miriam B. Martin-Clark
JUDGE

[It is of note that this order had been hand-written by the said judge.]

Appendix H

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT	DEFAULT REQUEST, AFFIDAVIT, ENTRY AND JUDGMENT (SUM CERTAIN)	CASE NO. 05-120468 GC

Court address (not legible) Court telephone no. (not legible)

Plaintiff name(s), address(es) and telephone no(s)

PORTFOLIO RECOVERY ASSOCIATES v.
Defendant name(s), address(es), and telephone no(s)
Sheila A. Knubbe
20197 Morningside (not legible)
Grosse Pointe F. MI 48236

Plaintiff attorney, bar no., address, and telephone no.
telephone no. (not legible)
Defendant attorney, bar no., address, and (blank)

Party in default: Sheila A Knubbe

REQUEST AND AFFIDAVIT

1. According to court rule, I request the clerk to enter the default of the party named above for failure to appear.

2. The claim against the defaulted part is for a sum certain or for a sum which by computation can be made certain and plaintiff requests judgment of the amount due from the defaulted party. Amount due plus costs are:

Damages	Interest	Costs	Other	Total
$ (not legible)	$ (not legible)	$ (not legible)	$ (not legible)	$ (not legible)

* Attach bill of costs

3. The defaulted party is not an infant or incompetent person.

4. The defaulted party |x| is not in the military service. | | is in the military service but there has been notice of the pendency of the action and

Appendix H
(continuation)

adequate time and opportunity to appear and defend (attached, as appropriate, is a waiver of rights and protections provided under the Service members Civil Relief Act).

5. The claim | | is |x| is not based on a note or other written evidence of indebtedness (if so, evidence is attached for filing and cancellation by clerk).

(Signed) Karol A Berndt

Applicant/Attorney signature Karol A Berndt, Bar no. (Illegible)

Subscribed and sworn to before me on 9 – 19 – 05, Oakland County, Michigan.

My commission expires: 9-19-05, Signature: (Illegible)
Deputy court clerk/Notary public

Notary public, State of Michigan, County of Oakland

DEFAULT ENTRY AND JUDGMENT The default of the party named above for failure to appear is entered.

| | A note or other written evidence of indebtedness has been filed for cancellation.

(A sentence which is not legible.)

9/29/05 Signature: (Illegible)
Date Court clerk

IT IS ORDERED this judgment is granted for $8,725.79. This judgment will earn interest at applicable statutory rates.

Stamp of JUDGE MIRIAM B. MARTIN-CLARK

9/29/05 Signature: (Illegible)
Date Court clerk/Judge

Judgment has been entered and will be final unless within 21 days of default judgment date a motion to set aside default is filed.

CERTIFICATE OF MAILING

Appendix H
(continuation)

I certify that a copy of this judgment was served on the other party(ies) or their attorney(s) by ordinary mail at the above address(es).

10/04/05 — Signature: (Illegible)

Date — Signature MCL 32.517, MCL 600.6013 MCR 2.603(B)(2), 50 USC 521

MC 07a (6/04) DEFAULT REQUEST, AFFIDAVIT, ENTRY, AND JUDGMENT (SUM CERTAIN)

Appendix I

AMENDMENT I TO THE UNITED STATES CONSTITUTION

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Appendix J

AMENDMENT VII TO THE UNITED STATES CONSTITUTION

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Appendix K

SECTION 1 OF AMENDMENT XIV TO THE UNITED STATES CONSTITUTION

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Appendix L

UNIVERSAL DECLARATION OF HUMAN RIGHTS

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in he following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

PREAMBLE

Whereas recognition of the inherent dignity and of the equal inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world * * * *

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member State themselves and among the peoples of territories under their jurisdiction.

Appendix L
(continuation)

ARTICLE 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 6

Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 17

(1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.